

American Indian Corrections

Gov. Brian Schweitzer asked the department to look into a program utilized in Canada that attempts to have Indian tribes play a larger role in the lives and rehabilitation of Indian offenders. The program is based on the theory that the strong influence of tribal elders can do more to change criminal behavior than the conventional justice system alone.

Two of the governor's aides and four department staffers, including the director, traveled to Lethbridge to get a firsthand look at the program operated by the Blackfoot Tribe there. The delegation spent about six hours gathering information from tribal officials and touring a prerelease center operated by the tribe on the reservation near Lethbridge.

The program provides culturally sensitive and tribal community-based corrections services for Indian offenders. The program does **not** involve unilaterally turning offenders over to tribal jurisdiction.

The program excludes those accused of murder and drunken driving.

The program's goals are to:

- Insert into the conventional justice system opportunities to apply tribal culture and traditions that hold Indian offenders accountable and offer them alternatives to court and prison.
- Prevent offenders from becoming enmeshed in a justice system that can seem foreign and intimidating due to cultural and language barriers.
- Involve the tribal community in helping offenders get back on the right track by giving elders – the most respected tribal members – a role in determining punishment, in collaboration with the victim, victim's family and prosecutor.

The first opportunity is after offenders are arrested and before they are charged.

- The prosecutor, victim, victim's family and offender can agree that the offender be subjected to a "healing circle."
- To be eligible, offenders must have no prior offenses and admit to their crime.
- The circle is a committee composed of the offender, victim, prosecutor and tribal elders.
- The circle determines the appropriate punishment, including community service, restitution, treatment and counseling, and how to resolve differences between the offender and victim.
- Elders are involved in the counseling programs.

The second opportunity is when an offender reaches court.

- A "native court worker" is assigned to aid the accused in finding a lawyer, helping the offender understand the criminal justice system, and acting as liaison between the offender and the court.
- The worker gathers information about the offender's family and employment history, and may speak on behalf of the offender at the sentencing.
- The worker does not act as a lawyer or give legal advice.
- The worker can help prevent instances where offenders are so intimidated by the justice system that they merely plead guilty rather than try to cope with the confusing legal morass.

--The worker can help determine if an offender would be suitable for sentencing to tribal corrections programs that include a prerelease centers, probation, access to chemical dependency treatment, mental health services and counseling by elders.

The key to success of the program is tribal involvement, with elders using their positions of respect within the tribe to persuade offenders to turn their lives around.

The department would like a recommendation from the council on how to proceed with implementing a similar program in Montana, perhaps as a pilot project with one or more tribes.